The Honorable Bob Perciasepe Acting Administrator U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, NW Washington, D.C. 20460

To EPA Acting Administrator

We are writing as representatives of the nation's agricultural community to express our deep concern, and our members' outrage, over the recent actions of the Environmental Protection Agency (EPA) to publicly release a significant amount of personal and business information about thousands of livestock and poultry farmers across the country. It is our understanding that this information was gathered from more than 30 state permitting authorities and simply transmitted as raw data to the Natural Resources Defense Council (NRDC), Earth Justice and the Pew Charitable Trusts as part of two separate Freedom of Information Act requests.

It is our understanding that EPA released the information without undertaking a review of the data to protect against the release of private or confidential business information that may have been improperly included in the states' submissions. There appears to have been a presumption by EPA that *all* data submitted by the states was publicly and readily available and therefore afforded no protection from disclosure under any federal laws.

From the farmer's perspective, the agency has collected and released details of peoples' private lives to NRDC and the others. The data included information on livestock and poultry farms and ranches of all sizes, from large CAFOs to the smallest of farms, many of which are maintained in state databases solely under state laws. The overwhelming majority of those farms are owned and operated by *families*. These are farmers who are honorably engaged in honest work to produce livestock and poultry to support themselves, their families, their communities, our country and consumers around the world. In most instances, farmers and ranchers live and raise their children in very close proximity to their animals. We object in the strongest terms possible to the release of this data for possible use by groups who oppose our members' businesses and way of life for reasons largely, if not entirely, unrelated to the honorable goals and objectives of the Clean Water Act.

We are deeply concerned that EPA is also actively developing from this, and similarly collected data for, a comprehensive, national and public database of every livestock and poultry operation in this nation, regardless of whether the facility holds a Clean Water Act permit. We stand ready to work with EPA and other appropriate government entities on creative and serious ways to help support these farmers and ranchers in meeting the goals of the Clean Water Act. But we, as representatives of the agricultural community, cannot see in these efforts a legitimate role for such a national, comprehensive database that does not also carry serious and unacceptable risks for farmers and ranchers and their families, and we would consequently oppose any such effort by EPA.

The specific reasons for our opposition are detailed in the lengthy comments we submitted to EPA and OIRA in 2011 opposing EPA's proposed Section 308 rule. In those comments we

expressed our concerns regarding the privacy and security implications of EPA's collection and release of individual farmer information. We went to great lengths to explain our concerns and justify the need to handle this type of information with the greatest of care. We emphasized that the information EPA sought to collect was not merely a business address, but a vital link in the nations' food systems, so vital in fact, that the Department of Homeland Security considers livestock critical infrastructure an important national resource. We also pointed out that many locations were also the address of a family's home. Yet, despite our very public efforts to sensitize EPA, agency staff made the unilateral decision that these concerns were not credible.

Going forward, it is critical that EPA reconsider the depth and seriousness of rural America's concerns and act responsibly to avoid any further release of sensitive information that could cause harm, not only to individual farmers and ranchers but to the nations' food supply.

Sincerely,

American Farm Bureau Federation
National Cattlemen's Beef Association
National Council of Farmer Cooperatives
National Chicken Council
National Pork Producers Council
National Turkey Federation
United Egg Producers
US Poultry and Egg Association

CC:

Rep. Frank Lucas

Rep. Collin Peterson

Rep. Bill Shuster

Rep. Nick Rahall

Rep. Bob Gibbs

Rep. Timothy Bishop

Sen. Debbie Stabenow

Sen. Thad Cochran

Sen. Barbara Boxer

Sen. David Vitter

Sen. Benjamin Cardin

Sen. John Boozman



FEB 2 8 2013

OFFICE OF WATER

Mr. Michael C. Formica Chief Environmental Counsel National Pork Producers Council 122 C Street, N.W. Suite 875 Washington, D.C. 20001

Dear Mr. Formica:

The Acting Administrator has asked me to respond to your letter expressing concerns about the Environmental Protection Agency's recent release of data on CAFOs pursuant to Freedom of Information Act (FOIA)(#2012-1337, #2013-1516). I want to reaffirm the Environmental Protection Agency's commitment, as well as my personal commitment, to working cooperatively with agriculture to achieve our mutual goals for protection of the environment and of our food supply. I also appreciate your offer to continue to work with us on ways to help support farmers and ranchers in meeting the goals of the Clean Water Act.

The issues you raised in your letter are significant and we are reviewing them carefully. To put these issues in context, some background will be helpful.

The information included in the FOIA releases was obtained from States following our decision not to proceed with a rule requiring reporting by CAFOs under Section 308 of the Clean Water Act. During the rulemaking, states and others advised us we could obtain the information we needed to characterize the universe of CAFOs through voluntary means, including access to State databases. We subsequently entered into an Memorandum of Understanding with the Association of Clean Water Administrators that provided a means for the EPA to work with States to obtain this information. The EPA obtained data on animal feeding operations in thirty States.

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Nonetheless, prompted by your concerns, we are investigating whether the FOIA releases contained additional information that is not readily available from States or other sources and that raises privacy concerns under FOIA. The Acting Administrator has emphasized the importance of this analysis and the

need to complete it as soon as possible. In the interim, we have asked the FOIA requestors - and they have agreed -- to refrain from further dissemination of information in the FOIA responses.

My intention is to ensure that we address any legitimate privacy concerns regarding these FOIA responses consistent with the Agency's obligations under the Freedom of Information Act. In addition, we are working to ensure that any future FOIA requests for similar information are reviewed carefully to ensure that privacy-related information is protected to the extent required by FOIA.

Again, I thank you for contacting the Acting Administrator with your concerns and look forward to continuing to work with you and your members to mitigate any issues that arise as a result of these circumstances.

Sincerely,

Nancy K. Stoner



FEB 2 8 2013

OFFICE OF WATER

Mr. Don Parrish
Senior Director, Regulatory Relations
American Farm Bureau Federation
600 Maryland Avenue, S.W.
Suite 1000W
Washington, D.C. 20024

Dear Mr. Parrish:

The Acting Administrator has asked me to respond to your letter expressing concerns about the Environmental Protection Agency's recent release of data on CAFOs pursuant to Freedom of Information Act (FOIA)(#2012-1337, #2013-1516). I want to reaffirm the Environmental Protection Agency's commitment, as well as my personal commitment, to working cooperatively with agriculture to achieve our mutual goals for protection of the environment and of our food supply. I also appreciate your offer to continue to work with us on ways to help support farmers and ranchers in meeting the goals of the Clean Water Act.

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Again, I thank you for contacting the Acting Administrator with your concerns and look forward to continuing to work with you and your members to mitigate any issues that arise as a result of these circumstances.

Sincerely,

Nancy K. Storler



FEB 2 8 2013

OFFICE OF WATER

Ms. Ashley McDonald Deputy Environmental Counsel National Cattlemen's Beef Association 1301 Pennsylvania Avenue, N.W. Suite 300 Washington, D.C. 20004

Dear Ms. McDonald:

The Acting Administrator has asked me to respond to your letter expressing concerns about the Environmental Protection Agency's recent release of data on CAFOs pursuant to Freedom of Information Act (FOIA)(#2012-1337, #2013-1516). I want to reaffirm the Environmental Protection Agency's commitment, as well as my personal commitment, to working cooperatively with agriculture to achieve our mutual goals for protection of the environment and of our food supply. I also appreciate your offer to continue to work with us on ways to help support farmers and ranchers in meeting the goals of the Clean Water Act.

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Again, I thank you for contacting the Acting Administrator with your concerns and look forward to continuing to work with you and your members to mitigate any issues that arise as a result of these circumstances.

Sincerely,

Nancy K. Stoner



FEB 2 8 2013

OFFICE OF WATER

Ms. Lisa Kelley Vice President & Chief of Staff, Government Affairs National Council of Farmer Cooperatives 50 F Street, N.W. Suite 900 Washington, D.C. 20001

Dear Ms. Kelley:

The Acting Administrator has asked me to respond to your letter expressing concerns about the Environmental Protection Agency's recent release of data on CAFOs pursuant to Freedom of Information Act (FOIA)(#2012-1337, #2013-1516). I want to reaffirm the Environmental Protection Agency's commitment, as well as my personal commitment, to working cooperatively with agriculture to achieve our mutual goals for protection of the environment and of our food supply. I also appreciate your offer to continue to work with us on ways to help support farmers and ranchers in meeting the goals of the Clean Water Act.

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Again, I thank you for contacting the Acting Administrator with your concerns and look forward to continuing to work with you and your members to mitigate any issues that arise as a result of these circumstances.

Sincerely,

Nancy K. Stoner



FEB 2 8 2013

OFFICE OF WATER

Ms. Mary Colville Vice President of Government Affairs National Chicken Council 1152 Fifteenth Street, N.W. Suite 430 Washington, D.C. 20005

Dear Ms. Colville:

The Acting Administrator has asked me to respond to your letter expressing concerns about the Environmental Protection Agency's recent release of data on CAFOs pursuant to Freedom of Information Act (FOIA)(#2012-1337, #2013-1516). I want to reaffirm the Environmental Protection Agency's commitment, as well as my personal commitment, to working cooperatively with agriculture to achieve our mutual goals for protection of the environment and of our food supply. I also appreciate your offer to continue to work with us on ways to help support farmers and ranchers in meeting the goals of the Clean Water Act.

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Again, I thank you for contacting the Acting Administrator with your concerns and look forward to continuing to work with you and your members to mitigate any issues that arise as a result of these circumstances.

Sincerely,

Nancy K. Stoner



FEB 2 8 2013

OFFICE OF WATER

Mr. Christian Richter The Policy Group 700 12th Street, N.W. Suite 700 Washington, D.C. 20005

Dear Mr. Richter:

The Acting Administrator has asked me to respond to your letter expressing concerns about the Environmental Protection Agency's recent release of data on CAFOs pursuant to Freedom of Information Act (FOIA)(#2012-1337, #2013-1516). I want to reaffirm the Environmental Protection Agency's commitment, as well as my personal commitment, to working cooperatively with agriculture to achieve our mutual goals for protection of the environment and of our food supply. I also appreciate your offer to continue to work with us on ways to help support farmers and ranchers in meeting the goals of the Clean Water Act.

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Sincerely,

Nancy K. Stoner



FEB 2 8 2013

OFFICE OF WATER

Mr. David Inall Senior Vice President United Egg Producers 1720 Windward Concourse Suite 230 Alpharetta, Georgia 30005

Dear Mr. Inall:

The Acting Administrator has asked me to respond to your letter expressing concerns about the Environmental Protection Agency's recent release of data on CAFOs pursuant to Freedom of Information Act (FOIA)(#2012-1337, #2013-1516). I want to reaffirm the Environmental Protection Agency's commitment, as well as my personal commitment, to working cooperatively with agriculture to achieve our mutual goals for protection of the environment and of our food supply. I also appreciate your offer to continue to work with us on ways to help support farmers and ranchers in meeting the goals of the Clean Water Act.

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Sincerely,

Nancy K. Stoner



FEB 2 8 2013

OFFICE OF WATER

Mr. Ryan Bennett Director, Government Relations National Milk Producers Federation 2101 Wilson Boulevard Suite 400 Arlington, Virginia 22201

Dear Mr. Bennett:

The Acting Administrator has asked me to respond to your letter expressing concerns about the Environmental Protection Agency's recent release of data on CAFOs pursuant to Freedom of Information Act (FOIA)(#2012-1337, #2013-1516). I want to reaffirm the Environmental Protection Agency's commitment, as well as my personal commitment, to working cooperatively with agriculture to achieve our mutual goals for protection of the environment and of our food supply. I also appreciate your offer to continue to work with us on ways to help support farmers and ranchers in meeting the goals of the Clean Water Act.

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Sincerely,

Nancy K. Stoner



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

FEB 2 8 2013

OFFICE OF WATER

Mr. Paul J. Bredwell Vice President - Environmental Programs U.S. Poultry and Egg Association 1530 Cooledge Road Tucker Georgia 30084

Dear Mr. Bredwell:

The Acting Administrator has asked me to respond to your letter expressing concerns about the Environmental Protection Agency's recent release of data on CAFOs pursuant to Freedom of Information Act (FOIA)(#2012-1337, #2013-1516). I want to reaffirm the Environmental Protection Agency's commitment, as well as my personal commitment, to working cooperatively with agriculture to achieve our mutual goals for protection of the environment and of our food supply. I also appreciate your offer to continue to work with us on ways to help support farmers and ranchers in meeting the goals of the Clean Water Act.

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Again, I thank you for contacting the Acting Administrator with your concerns and look forward to continuing to work with you and your members to mitigate any issues that arise as a result of these circumstances.

Sincerely,

Nancy K. Stoner



FEB 2 8 2013

OFFICE OF WATER

Mr. Tom Hebert Principal Bayard Ridge Group LLC 4440 Faraday Place, N.W. Washington, D.C. 20016

Dear Mr. Hebert:

The Acting Administrator has asked me to respond to your letter expressing concerns about the Environmental Protection Agency's recent release of data on CAFOs pursuant to Freedom of Information Act (FOIA)(#2012-1337, #2013-1516). I want to reaffirm the Environmental Protection Agency's commitment, as well as my personal commitment, to working cooperatively with agriculture to achieve our mutual goals for protection of the environment and of our food supply. I also appreciate your offer to continue to work with us on ways to help support farmers and ranchers in meeting the goals of the Clean Water Act.

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Sincerely,

Nancy K. Stoner



Re: Director Hill. William (Wym) Matthews, Oregon Dept. of Ag/CAFO Program Manager, should be the intended recipient for this message. Please have his e-mail address added to the list.

Randy Hill to: Carol Devore Cc: "Becky Mitschele", wmatthews 02/08/2013 06:47 PM

Dear Ms. Devore:

Thank you for your email We will update our contact list.

Randy Hill Acting Director Office of Wastewater Management 202-564-0748

Sent by EPA Wireless E-Mail Services

From: Carol Devore [cdevore@oda.state.or.us]

Sent: 02/08/2013 03:32 PM PST

To: Randy Hill

Subject: Director Hill. William (Wym) Matthews, Oregon Dept. of Ag/CAFO Program Manager, should be the intended recipient for this message. Please have his e-mail address added to the list.

The message (pasted in below) was not received by me in error, but the message should not only have been received by me. I am the office support for the Oregon Department of Agriculture's CAFO Program, and William (Wym) Matthews is the CAFO Program Manager. Please add wmatthews@oda.state.or.us to this list, as he must be the main recipient for Oregon/NPDES/CAFO re: this topic.

Thank you.

Carol A. Devore

On Feb 8, 2013, at 2:42 PM, Hill.Randy@epamail.epa.gov wrote:

Dear State NPDES Permitting Manager,

I wanted to make you aware of two separate Freedom of Information Act (FOIA) requests to EPA, both of which asked for all records relating to EPA's effort to collect CAFO data. One was from EarthJustice and the other was submitted by the Natural Resources Defense Council and Pew Charitable Trust. As indicated during our state conference calls, state information shared with EPA is subject to FOIA requirements.

Working with our Office of General Counsel, we determined what records we were legally required to provide, and these records included information provided to EPA from states. On Monday, EPA sent the requesters a CD with responsive and releasable documents that included the information states have provided regarding the data collection effort. We have provided the data in the format provided by the state. We did not share any state data that EPA has processed (i.e. removing duplicates, converting coordinate systems, etc.).

Along with other federal agencies, EPA now manages FOIA requests through FOIAonline. FOIAonline is a public website that tracks and stores information responsive to a request. It's the

Agency's policy to upload records to FOIAonline. While publically available, a user would need to search through all FOIA requests to EPA with a keyword or have the ID number for the FOIA to review the responsive and releasable documents. Once EPA closes out the FOIA request in the next few weeks, the information we provided under these FOIAs will be available at:

https://foiaonline.regulations.gov/foia/action/public/view/request?objectId=090004d28001613d

We will be reaching out to our agricultural stakeholders, so would appreciate if you would wait until Monday afternoon before you reach out to your own stakeholders.

If you have additional questions, you can contact Allison Wiedeman, Rural Branch Chief, either at wiedeman.allison@epa.gov or (202) 564-3105, or call Becky Mitschele, of my staff, at either (202) 564-6418 or mitschele.becky@epa.gov. We also can discuss these FOIAs during the Rural Branch workgroup call hosted by the Association of Clean Water Administrators.

Sincerely yours,

Randy Hill
Acting Director
Office of Wastewater Management
U.S. EPA (4201M)
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
(202) 564-0748
(202) 501-2338 (FAX)
hill.randy@epa.gov

Confidential: This transmission may contain deliberative, attorney-client, attorney work product or otherwise privileged material. Do not release under FOIA without appropriate review. If this message has been received by you in error, you are instructed to delete this message from your machine and all storage media whether electronic or hard copy.

Carol A. Devore, CAFO Program Support Natural Resources Division Oregon Department of Agriculture 635 Capitol ST NE Salem, OR 97301 PH: (503) 986-4699 FAX: (503) 986-4730 E-mail address: cdevore@oda.state.or.us Carol A. Devore, CAFO Program Support Natural Resources Division Oregon Department of Agriculture 635 Capitol ST NE Salem, OR 97301 PH: (503) 986-4699 FAX: (503) 986-4730 E-mail address: cdevore@oda.state.or.us



RE: CAFO Data & NPPC Environment Committee Meeting

Michael Formica

to:

Allison Wiedeman, Ellen Gilinsky 02/11/2013 10:16 AM

Cc:

Nancy Stoner, Randy Hill

Hide Details

From: Michael Formica <formicam@nppc.org>

To: Allison Wiedeman/DC/USEPA/US@EPA, Ellen Gilinsky/DC/USEPA/US@EPA

Cc: Nancy Stoner/DC/USEPA/US@EPA, Randy Hill/DC/USEPA/US@EPA

Thanks. Allison, just tried to call you. We are pretty casual (I try to keep us as low key and casual as possible) so if it's a couple of minutes on either end, that's fine. We had a previously schedule break at 2:10, so it was a good place to slip you in to.

From: Wiedeman.Allison@epamail.epa.gov [mailto:Wiedeman.Allison@epamail.epa.gov]

Sent: Monday, February 11, 2013 10:14 AM

To: Gilinsky.Ellen@epamail.epa.gov; Michael Formica

Cc: Stoner.Nancy@epamail.epa.gov; Hill.Randy@epamail.epa.gov Subject: Re: CAFO Data & NPPC Environment Committee Meeting

Yes - per Michael's email below we will be calling in to the committee at 2:20pm today.

From: Ellen Gilinsky

Sent: 02/11/2013 10:07 AM EST

To: "Michael Formica" < formicam@nppc.org > Cc: Nancy Stoner; Allison Wiedeman; Randy Hill

Subject: Re: CAFO Data & NPPC Environment Committee Meeting

Allison and Deborah Nagle will be on the call to answer any questions and give more specifics on the data itselg

From: Michael Formica [formicam@nppc.org]

Sent: 02/11/2013 03:05 PM GMT

To: Ellen Gilinsky

Cc: Nancy Stoner; Allison Wiedeman

Subject: CAFO Data & NPPC Environment Committee Meeting

Ellen

Thank you for the call on Friday night. As we discussed on Friday, my environment committee is meeting this afternoon in Raleigh, NC. I appreciate your offer to have EPA Water staff call in and provide an update on this issue to the committee. Based on our conversation Friday, I have placed you and your staff on the agenda for 2:20 pm EST this afternoon. Here is the call in number:

Call In Number:
Passcode: *

heducted pursuant to Folk exemption 6

Will have a break in the agenda scheduled for 2:10 pm, so this will provide an easy opportunity to get the phone system set up. Our committee is composed of approximately 25 members of NPPC Environment Committee including a number of individual producers, the primary environmental staff from the swine production side of our larger member companies (Smithfield, Cargill, etc) and some state executives. We will also likely have some of our internal staff who do state outreach on the phone as well. Paul Bredwell of US Poultry and Egg Association is also attending the meeting, and will be on the call. By and large, it's a pretty friendly group. Allison Weidman has met with them a number of times over the years and I hope can vouch that we are fairly hospitable (perhaps we can have you come out to meet with them in person at our fall meeting).

I'm look forward to reviewing the statement and information that you indicated the Office of Water intends to release this morning on the FOIA responses.

Of course, while disappointed to learn of the release of all the state FOIA data without any notice to producers, we certainly understand that in any organization as large as EPA, it is tough to control the actions of everyone and sometimes one branch accidently gets ahead of itself. With any luck, once the released data is reviewed we will be able to ensure that it only included data that was otherwise subject to FOIA release and did not include any confidential information or data that shouldn't otherwise have been released. If it did, I trust that we will find a way to work together towards correcting the situation and ensuring the safety of the producers farms (which in many instances also serve as their family home).

We are looking forward to speaking with you and your staff at 2:20pm today. In the meantime if you have any questions, don't hesitate to call me at 202-680-3820

Michael Formica National Pork Producers Council (202) 680-3820



Partial Response to FOIA EPA-HQ-2013-001516



12/18/2012 11:32 AM

Becky Mitschele to: jjanovsky@pewtrusts.org, jdevine "Althouse, Claire", Simma Kupchan, Scott Yager, George Utting,

Adelaide Webb, Diane Jones-Coleman

From:

Becky Mitschele/DC/USEPA/US

To:

"jjanovsky@pewtrusts.org" <jjanovsky@pewtrusts.org>, jdevine@nrdc.org

Cc:

"Althouse, Claire" <calthouse@nrdc.org>, Simma Kupchan/DC/USEPA/US@EPA, Scott

Yager/DC/USEPA/US@EPA, George Utting/DC/USEPA/US@EPA, Adelaide Webb/DC/USEPA/US@EPA, Diane Jones-Coleman/DC/USEPA/US@EPA

Hello Jon and Julie,

We have mailed a partial response to the FOIA requesting copies of records related to the withdrawal of the proposed CAFO Reporting Rule.

Please find attached the cover letter that will be enclosed with the CD that we are mailing today. Once you have had a chance to review the documents, we can set up a meeting to discuss next steps. Please let me know what would be a good day and time for you all.



Interim response cover letter to NRDC and Pew.pdf

Thanks, Becky Mitschele Water Permits Division, OWM U.S. Environmental Protection Agency

Tel: 202.564.6418



WASHINGTON, D.C. 20460

OFFICE O WATER

DFC 1 8 2012

Julie Janovsky
Pew Charitable Trusts
10th Floor
901 E Street NW
Washington D.C. 20004

RE: Freedom of Information Act Request EPA-HQ-2013-001516

Dear Ms. Janovsky:

This letter is an interim response to your Freedom of Information Act request submitted on November 29, 2012. You requested records related to the EPA's withdrawal of the proposed National Pollutant Discharge Elimination System (NPDES) Concentrated Animal Feeding Operation (CAFO) Reporting Rule.

The enclosed CD contains a number of documents we think are responsive to your request. Once you have had a chance to review them, we would like to speak with you to determine if the request can be further honed.

Please contact me at (202) 564-0744 or Becky Mitschele at (202) 564-6418 if you have any questions concerning this matter.

Sincerely,

George Utting

Acting Branch Chief, Rural Branch



OFFICE OF WATER

DFC 1 8 2012

Jon Devine NRDC 1152 15th Street NW, Suite 300 Washington D.C. 20005

RE: Freedom of Information Act Request EPA-HQ-2013-001516

Dear Mr. Devine:

This letter is an interim response to your Freedom of Information Act request submitted on November 29, 2012. You requested records related to the EPA's withdrawal of the proposed National Pollutant Discharge Elimination System (NPDES) Concentrated Animal Feeding Operation (CAFO) Reporting Rule.

The enclosed CD contains a number of documents we think are responsive to your request. Once you have had a chance to review them, we would like to speak with you to determine if the request can be further honed.

Please contact me at (202) 564-0744 or Becky Mitschele at (202) 564-6418 if you have any questions concerning this matter.

Sincerely,

George Utting

Acting Branch Chief, Rural Branch



Partial Denial Letter - FOIA Interim Response #2 - All Responsive Documents Except Email Records

Becky Mitschele to: Julie Janovsky, jdevine, calthouse, ksteuer

01/31/2013 04:56 PM

Cc: Scott Yager, Simma Kupchan, George Utting

From:

Becky Mitschele/DC/USEPA/US

To:

Julie Janovsky <iijanovsky@pewtrusts.org>, jdevine@nrdc.org, calthouse@nrdc.org,

ksteuer@pewtrusts.org

Cc:

Scott Yager/DC/USEPA/US@EPA, Simma Kupchan/DC/USEPA/US@EPA, George

Utting/DC/USEPA/US@EPA

Please find attached a letter in response to your FOIA Request as well as a list of documents withheld. You will be getting a CD with electronic records of all releasable documents, and I will be uploading these documents into FOIAonline. We have mailed the CD and the attached letter to both NRDC and Pew.

We are working on compiling the email records per our previous email exchanges. Thank you again for working with us as we transmit all responsive email records to you in a few weeks. If you have any questions, please feel free to call.



Partial Denial Letter to NRDC_PEW.pdf



Spreadsheet with the documents withheld.xlsx

Thanks,
Becky Mitschele
Water Permits Division, OWM
U.S. Environmental Protection Agency

Tel: 202.564.6418



JAN 3 1 2013

OFFICE OF WATER

PARTIAL DENIAL LETTER

January 31, 2013

Mr. Jon Devine Natural Resources and Defense Council 1152 15th St N.W., Suite 300 Washington, D.C. 20005

Ms. Karen Steuer Pew Charitable Trusts 10th Floor 901 E Street, N.W. Washington D.C. 20004

RE: Freedom of Information Act Request EPA-HQ-2013-001516

This is in response to your Freedom of Information Act (FOIA) request on behalf of Natural Resources and Defense Council (NRDC) and Pew Charitable Trusts, received on November 29, 2012.

Per email communications on January 29, 2013, we agreed to transmit all records, excluding emails, responsive to your FOIA request by January 31, 2013. We appreciate the extension of time to review and transmit email records related to items I(1-3) in your FOIA request. We will transmit email records by February 19, 2013, as outlined in our email communications.

Enclosed you will find a compact disk with documents responsive to your request for the January 31, 2013 deadline. We are unable to provide you with the documents, or portions of documents, which have been determined to be exempt from mandatory disclosure by virtue of 5 U.S.C. § 552(b)(5) ("inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency") and 40 C.F.R. § 2.105(a)(5) ("inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than in litigation with the affected agency"). The documents EPA has withheld pursuant to this exemption include materials that would be protected under the attorney-client privilege and the executive deliberative process privilege.

An itemized list by category (including date range, number of documents, and approximate number of pages) of the withheld material along with the basis (i.e. exemption) for withholding is enclosed.

You may appeal this partial denial to the National Freedom of Information Office, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460, Email: hqfoia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service, or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W. Room 6416J, Washington D.C., 20004.

Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the FOIA number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

Please contact Becky Mitschele at (202) 286-6418 should you have any questions concerning this matter.

Sincerely.

Allison Wiedeman Chief, Rural Branch Water Permits Division

Enclosures:

Itemized list, excluding email records, by category of withheld material Compact disc (CD)

Itemized List, Excluding Email Records, by Category of Withheld Material

Item*	Date Range	Description of Document/Document Category	Exemption	Approximate (Approx.) Number of Documents	Approx. Number of Pages
A	5/1/2012 to 11/1/2012	Internal, pre-decisional drafts of documents, including briefing documents or notes during state conference calls, that refer or relate to the completeness, accuracy, or public accessibility of CAFO information maintained by states.	5 U.S.C. § 552(b) and 40 C.F.R. § 2.105(a)	146	293
В	2/1/2012 to 11/1/2012	Internal, pre-decisional drafts of documents that refer or relate to how EPA should gather CAFO information and EPA's progress on obtaining existing CAFO information.	5 U.S.C. § 552(b) and 40 C.F.R. § 2.105(a)	88	206
С	5/15/2012 to 7/30/2012	Internal, pre-decisional drafts of documents that refer or relate to the Memorandum of Understanding between EPA and the Association of Clean Water Administrators.	5 U.S.C. § 552(b) and 40 C.F.R. § 2.105(a)	18	39
D	10/15/201 2 to 11/1/2012	Internal, pre-decisional drafts of briefing documents, desk statements, communication strategies, internal agency workgroup meeting materials, website revisions, Federal Register Notice versions, talking points, EPA office to office memoranda, and/or comment summary documents that refer or relate to the Agency's withdrawal of the proposed NPDES CAFO Reporting Rule.	5 U.S.C. § 552(b) and 40 C.F.R. § 2.105(a)	222	3,264

^{*} Item column corresponds to the enclosed spreadsheet which shows document titles



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JAN 3 1 2013

OFFICE OF WATER

PARTIAL DENIAL LETTER

January 31, 2013

Mr. Jon Devine Natural Resources and Defense Council 1152 15th St N.W., Suite 300 Washington, D.C. 20005

Ms. Karen Steuer Pew Charitable Trusts 10th Floor 901 E Street, N.W. Washington D.C. 20004

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^{*} Item column corresponds to the enclosed spreadsheet which shows document titles

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Re: Contact information for CAFO Data Strategy

Becky Mitschele to: Julie Janovsky

12/17/2012 04:34 PM

From:

Becky Mitschele/DC/USEPA/US

To:

Julie Janovsky <jjanovsky@pewtrusts.org>

Thanks, Julie!

Happy holidays to you too. I will be sending a disk to you and NRDC that will hopefully go out in tomorrow mail pickup.

We appreciated your time as well. Happy holidays and look forward to hearing back from you about next steps.

Thanks, Becky Mitschele Water Permits Division, OWM U.S. Environmental Protection Agency Tel: 202.564.6418



Contact information for CAFO Data Strategy Julie Janovsky

to:

Becky Mitschele 12/17/2012 04:06 PM

Hide Details

From: Julie Janovsky <jjanovsky@pewtrusts.org>

To: Becky Mitschele/DC/USEPA/US@EPA

History: This message has been replied to.

Hi Becky,

Thanks for the call today, and for sending over the CAFO Data Strategy and any other materials. If sending a disk (I believe that was what you mentioned) the best address is:

Julie Janovsky Pew Charitable Trusts 10th Floor 901 E Street NW Washington DC 20004

Thanks again for your time today and that of the whole team. It was much appreciated.

Have a great holiday,

Julie

Julie Janovsky Manager, Reforming Industrial Animal Agriculture Pew Charitable Trusts C. 301.928.3882 www.pewenvironment.org/animalagriculture www.CAFOPollution.org



RE: Partial Denial Letter - FOIA Interim Response #2 - All Responsive

Documents Except Email Records
Karen Steuer to: Becky Mitschele

01/31/2013 05:07 PM

From: To: Karen Steuer <ksteuer@pewtrusts.org> Becky Mitschele/DC/USEPA/US@EPA

Thank you Becky.

Karen Steuer
Director, Government Relations
Pew Environment Group
901 E Street NW, Washington D.C.
(202) 887-8818
ksteuer@pewtrusts.org

From: Mitschele.Becky@epamail.epa.gov [mailto:Mitschele.Becky@epamail.epa.gov] Sent: Thursday, January 31, 2013 4:57 PM

To: Julie Janovsky; jdevine@nrdc.org; calthouse@nrdc.org; Karen Steuer Cc: Yager.Scott@epamail.epa.gov; Kupchan.Simma@epamail.epa.gov;

Utting.George@epamail.epa.gov

Subject: Partial Denial Letter - FOIA Interim Response #2 - All

Responsive Documents Except Email Records

Please find attached a letter in response to your FOIA Request as well as a list of documents withheld. You will be getting a CD with electronic records of all releasable documents, and I will be uploading these documents into FOIAonline. We have mailed the CD and the attached letter to both NRDC and Pew.

We are working on compiling the email records per our previous email exchanges. Thank you again for working with us as we transmit all responsive email records to you in a few weeks. If you have any questions, please feel free to call.

(See attached file: Partial Denial Letter to NRDC_PEW.pdf)
(See attached file: Spreadsheet with the documents withheld.xlsx)

Thanks,
Becky Mitschele
Water Permits Division, OWM
U.S. Environmental Protection Agency
Tel: 202.564.6418



RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Becky Mitschele to: Karen Steuer

01/07/2013 03:11 PM

Cc: "James, Carol"

From:

Becky Mitschele/DC/USEPA/US

To:

Karen Steuer < ksteuer@pewtrusts.org>

Cc:

"James, Carol" <cjames@nrdc.org>

Thanks!! I will send out the meeting invite shortly then.

Becky Mitschele Water Permits Division, OWM U.S. Environmental Protection Agency

Tel: 202.564.6418

Karen Steuer

Thanks Becky - sorry for the delay in responding...

01/07/2013 03:10:40 PM

From:

Karen Steuer <ksteuer@pewtrusts.org>

To:

Becky Mitschele/DC/USEPA/US@EPA, "James, Carol" <cjames@nrdc.org>

Date:

01/07/2013 03:10 PM

Subject:

RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Thanks Becky - sorry for the delay in responding.

Yes. I can make it at 5:00 on the 10th.

Karen

From: Mitschele.Becky@epamail.epa.gov [mailto:Mitschele.Becky@epamail.epa.gov]

Sent: Monday, January 07, 2013 11:19 AM

To: James, Carol; Karen Steuer

Subject: RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Thanks so much, Carol! I need to make sure this works for Karen at Pew. If so, I will send out the meeting invite

Karen, does this time (1/10, Thursday, 5 to 6 pm) work for you?

Thanks again!
Becky Mitschele
Water Permits Division, OWM
U.S. Environmental Protection Agency

Tel: 202.564.6418

"James, Carol" ---01/07/2013 11:14:49 AM---Hi Becky - Both Jon and Claire can do this Thursday, January 10, 5:00pm-6:00pm Eastern Time. Let's

From: "James, Carol" < ciames@nrdc.org>

To: Becky Mitschele/DC/USEPA/US@EPA

Date: 01/07/2013 11:14 AM

Subject: RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Hi Becky – Both Jon and Claire can do this Thursday, January 10, 5:00pm-6:00pm Eastern Time. Let's go with that. Will you be following up with a meeting request?

Thanks.

Carol

From: Mitschele.Becky@epamail.epa.gov [mailto:Mitschele.Becky@epamail.epa.gov]

Sent: Monday, January 07, 2013 9:51 AM

To: James, Carol

Cc: Devine, Jon; Karen Steuer; Althouse, Claire

Subject: Fw: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Hi Carol,

Thanks for helping me out with setting something up with Jon and Claire at NRDC to discuss the 12/20 letter in response to the CAFO FOIA.

I previously heard back from Karen with options, but I don't think that NRDC could meet this afternoon so let's try to set something up a bit later in the month. Deborah is open the following times:

1/8 from 5 to 6 pm EST 1/10 from 5 pm to 6 pm EST 1/22 from 10 am to 11 am; 2 to 3 pm, or anywhere from 4 to 6 pm.

Could you give me some options so that I can make sure that Karen is available as well since she was not on the first call?

We would like an hour; however, because there are multiple people's schedules, if we have only a 30 min block, we can still have a productive but short call.

Thanks for your help!

Thanks,
Becky Mitschele
Water Permits Division, OWM
U.S. Environmental Protection Agency

Tel: 202.564.6418

---- Forwarded by Becky Mitschele/DC/USEPA/US on 01/07/2013 09:44 AM -----

From: Becky Mitschele/DC/USEPA/US
To: Karen Steuer ksteuer@pewtrusts.org
Cc: "Devine, Jon" ksteuer@pewtrusts.org

Date: 12/31/2012 10:08 AM

Subject: RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Thanks, Karen!

I don't think Jon is in until the 2nd so I will check with him then to see if one of those times also works for him.

Happy New Year!

Becky Mitschele Water Permits Division, OWM U.S. Environmental Protection Agency

Tel: 202.564.6418

Karen Steuer ---12/31/2012 10:01:12 AM---Hi Becky, Thanks for getting back to us so quickly. I'm available after 5 on 1/3, and all afternoon

From: Karen Steuer < ksteuer@pewtrusts.org >

To: Becky Mitschele/DC/USEPA/US@EPA, "Devine, Jon" < idevine@nrdc.org>

Date: 12/31/2012 10:01 AM

Subject: RE: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Hi Becky.

Thanks for getting back to us so quickly. I'm available after 5 on 1/3, and all afternoon on the 7th.

Karen

Karen Steuer
Director, Government Relations
Pew Environment Group
901 E St. NW
Washington, D.C. 20005
(202)887-8818

From: Mitschele.Becky@epamail.epa.gov [Mitschele.Becky@epamail.epa.gov]

Sent: Friday, December 28, 2012 1:42 PM

To: Devine, Jon; Karen Steuer

Subject: Meeting requested to discuss 12/20 letter in response to CAFO FOIA

Hi Jon and Karen,

I would like to set up another quick conference call to discuss the CAFO FOIA. In addition to myself and George Utting, Rural Branch Acting Chief, Deborah Nagle, our Division Director, will be on the call. We would like to discuss the site-specific CAFO records on this call.

Is there a good time that works for both of you? Deborah currently has open the following times:

1/2/13 after 3 pm EST 1/3/13 After 5 pm 1/7 or 1/9 after 3 pm

Thanks, Becky Mitschele Water Permits Division, OWM U.S. Environmental Protection Agency Tel: 202.564.6418